

By: Hughes

S.B. No. 874

A BILL TO BE ENTITLED

AN ACT

relating to the mandatory dismissal of certain suits affecting the parent-child relationship involving the Department of Family and Protective Services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 263.401, Family Code, is amended to read as follows:

Sec. 263.401. DISMISSAL AFTER ONE YEAR; NEW TRIALS; EXTENSION. (a) Unless the court has commenced the trial on the merits or granted an extension under Subsection (b) or (b-1), on the first Monday after the first anniversary of the date the court rendered a temporary order appointing the department as temporary managing conservator, the court's jurisdiction over ~~[court shall dismiss]~~ the suit affecting the parent-child relationship filed by the department that requests termination of the parent-child relationship or requests that the department be named conservator of the child is terminated and the suit is automatically dismissed without a court order.

(b) Unless the court has commenced the trial on the merits, the court may not retain the suit on the court's docket after the time described by Subsection (a) unless the court finds that extraordinary circumstances necessitate the child remaining in the temporary managing conservatorship of the department and that continuing the appointment of the department as temporary managing

conservator is in the best interest of the child. If the court makes those findings, the court may retain the suit on the court's docket for a period not to exceed 180 days after the time described by Subsection (a). If the court retains the suit on the court's docket, the court shall render an order in which the court:

(1) schedules the new date on which the suit will be automatically dismissed if the trial on the merits has not commenced, which date must be not later than the 180th day after the time described by Subsection (a);

(2) makes further temporary orders for the safety and welfare of the child as necessary to avoid further delay in resolving the suit; and

(3) sets the trial on the merits on a date not later than the date specified under Subdivision (1).

(b-1) If, after commencement of the initial trial on the merits within the time required by Subsection (a) or (b), the court grants a motion for a new trial or mistrial, or the case is remanded to the court by an appellate court following an appeal of the court's final order, the court shall retain the suit on the court's docket and render an order in which the court:

(1) schedules a new date on which the suit will be automatically dismissed if the new trial has not commenced, which must be a date not later than the 180th day after the date on which:

(A) the motion for a new trial or mistrial is granted; or

(B) the appellate court remanded the case;

(2) makes further temporary orders for the safety and

1 welfare of the child as necessary to avoid further delay in
2 resolving the suit; and

3 (3) sets the new trial on the merits for a date not
4 later than the date specified under Subdivision (1).

5 (c) If the court grants an extension under Subsection (b) or
6 (b-1) but does not commence the trial on the merits before the
7 dismissal date, the court's jurisdiction over ~~[court shall dismiss]~~
8 the suit is terminated and the suit is automatically dismissed
9 without a court order. The court may not grant an additional
10 extension that extends the suit beyond the required date for
11 dismissal under Subsection (b) or (b-1), as applicable.

12 SECTION 2. The changes in law made by this Act to Section
13 [263.401](#), Family Code, apply only to a suit affecting the
14 parent-child relationship filed on or after the effective date of
15 this Act. A suit affecting the parent-child relationship filed
16 before the effective date of this Act is governed by the law in
17 effect on the date the suit was filed, and the former law is
18 continued in effect for that purpose.

19 SECTION 3. This Act takes effect September 1, 2017.